

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 6771/2023

Gopal Lal Agarwal S/o Late Prabhunarayan, R/o House No. 1613,
Sonthli Walon Ka Rasta, Choura Rasta, Jaipur.

-----Petitioner

Versus

Vikas Kumar Soni S/o Gajanand Soni, R/o House No. 17,
Laxminarayan Marg, Pondrik Udhyan Ke Samne, Brahmpuri,
Jaipur, At Present Tenant House No. 1613, Sonthli Walon Ka
Rasta, Choura Rasta, Jaipur.

-----Respondent

For Petitioner(s)	:	Mr. Ram Naresh Vijay
For Respondent(s)	:	Ms. Palak Saraswat on behalf of Mr. Sarvesh Kumar

HON'BLE MR. JUSTICE BIPIN GUPTA

Judgment / Order

18/03/2026

1. With the consent of both parties, the present writ petition stands disposed of on the following terms:

(i) Both parties are ad idem that an application under Section 5 of the Limitation Act was filed before the learned Trial Court; however, the same was not decided, and the application filed under Order IX Rule 13 CPC was dismissed directly. Against the said order, the defendant preferred an appeal. The learned Appellate Court, instead of deciding the application under Section 5 of the Limitation Act, proceeded to decide the appeal and allowed the application under Order IX Rule 13 CPC.

(ii) Both parties agree that, without a decision on the application filed under Section 5 of the Limitation Act,

no order could have been passed on merits under Order IX Rule 13 CPC.

(iii) Therefore, this Court deems it appropriate to remand the matter back to the learned Appellate Court to decide both the application filed under Section 5 of the Limitation Act as well as the application under Order IX Rule 13 CPC, in accordance with law.

(iv) The aforesaid exercise shall be carried out by the learned Appellate Court within a period of six months from the date of receipt of a certified copy of this order.

2. Pending application(s), if any, also stand disposed of.

(BIPIN GUPTA),J